



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 22, 2016

Fazio Brothers Sand Company, Inc.
Attention: Richard Fazio
12112 Northwest Lower River Road
Vancouver, WA 98660

RE: Water Quality Certification Order No. **13271** for Corps Public Notice No. **NWS-2003-1265**, Columbia River Mining between river miles 94 to 101.5, near Vancouver, Clark County, Washington

Dear Mr. Fazio:

On August 31, 2015, Fazio Brothers Sand Company, Inc., requested a Section 401 Water Quality Certification from the Department of Ecology (Ecology). Fazio Brothers Sand Company, Inc., proposes to continue dredging operations in the Columbia River from River Mile 94 to 101.5.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Loree' Randall at (360) 407-6068. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters

Enclosure

By certified mail 7015 0640 0001 0772 1412

cc: David Martin, US Army Corps of Engineers



Fazio Brothers Sand Co. Inc.
April 22, 2016
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e-cc: ECY RE FEDPERMITS
Loree Randall – HQ, SEA
Rebecca Rothwell – SW, SEA

IN THE MATTER OF GRANTING A) ORDER #13271
WATER QUALITY) Corps Reference No. NWS 2003-1265
CERTIFICATION TO) Columbia River Mining between river miles 94
Fazio Brothers Sand Company) to 101.5, near Vancouver, Clark County, WA.
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Fazio Brothers Sand Company, Inc.
Attention: Richard Fazio
12112 Northwest Lower River Road
Vancouver, WA 98660

On August 31, 2015, Fazio Brothers Sand Company, Inc., requested a Section 401 Water Quality Certification from the Department of Ecology (Ecology). A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on November 19, 2015.

Fazio Brothers Sand Company, Inc., proposes to continue dredging operations in the Columbia River from River Mile 94 to 101.5. The applicant is proposing to dredge the federal navigation channel and up to 100 feet outside the channel to a depth of -60 feet Columbia River Datum (CRD) from River Mile 94 to 100 and in the freighter anchorage area located from River Mile 96 to 99.5. From River Mile 100 to 101.5 the proposed project would include dredging the navigation channel and up to 100 feet outside the channel to a depth of -48 feet CRD. Dredging would predominantly be completed with the use of a hydraulic pipeline dredge with a cutterhead on the end of the arm that is buried between three and six feet deep in the river bottom. Dredging may also be complete by a clamshell dredge or a hopper dredge. The dredge material would be placed at the Fazio Brothers' approved upland disposal location.

Dredging activities would take place annually between October 1 and February 28 or 29 of a given year for 10 years. Up to 325,000 cubic yards per year of material would be removed.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and

3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the Fazio Brothers Sand Company and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or emailed to fednotification@ecy.wa.gov. Any submittals shall reference Order #13271 and Corps Reference # NWS 2003-1265.
3. All notifications listed below shall be made via e-mail to fednotification@ecy.wa.gov. These notifications shall be identified with Order # 13271, Corps Reference # NWS 2003-1265 and include the Applicant's name, the project contact, and the contact's phone number.
 - a. At least ten (10) days prior to conducting in-water work activities for each in-water work window.
 - b. Within at least seven (7) days after completion of the in-water work for each work window.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on August 31, 2015, unless otherwise authorized by Ecology.

5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
7. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual 404 and/or Section 10 permit for the project.
8. The Applicant shall send (per A.2.) a copy of the final Section 404 Corps permit to Ecology's Federal Project Manager within two weeks of receiving it from the Corps.
9. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
10. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
11. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
12. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
13. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
14. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.

15. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

16. This Order will automatically transfer to a new owner or operator if:

- a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
- b. A copy of this Order is provided to the new owner or operator; and
- c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

B. Water Quality Conditions:

1. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A.

C. Water Quality Monitoring:

1. The Applicant shall monitor water quality during in-water dredging according to the Water Quality Monitoring Plan Fazio Brothers Sand Company, prepared by BergerABAM, dated March 9, 2016 or as modified by this Order or revised and approved by Ecology.
2. If exceedance occur the Applicant shall notify the Federal Permit manager within 24 hours of the exceedance.
3. The Applicant shall submit the Water Quality Monitoring Reports to Ecology upon request.

D. Dredging and Disposal:

1. All dredging is to be done using predominantly a hydraulic pipeline dredge, however a clamshell or hopper dredge may also be used. **Use of any other type of dredge requires preapproval from Ecology.**
2. All dredged material will be placed at the Applicants approved upland disposal location. **Use of any other location requires pre-approval by Ecology.**
3. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.

4. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
5. A pre-dredge meeting is required to be convened prior to the start of dredging the first year. A **Dredging Plan** is required and shall be submitted to Ecology to the 401/CZM Federal permit manager at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-dredge meeting.

E. Timing Requirements:

1. All in-water work shall be completed within the work window of October 1st and February 28th (29th) of any given year. Any project changes that requires work outside this work window shall be approved by Ecology prior to working outside the window.
2. This Order shall remain in effect for a period of 10 years from date of issuance of the Corps permit. Continuing this project beyond the term of this Order will require separate certifications.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, and within 24 hours of spills or other events Ecology's 401/CZM Federal permit coordinator at (360) 407-6068.

- f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order.

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Loree' Randall
Department of Ecology
Headquarters, SEA Program
PO Box 47600
Olympia WA 98504
360-407-6068

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice and Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 34.05 RCW – Administrative Procedure Act

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

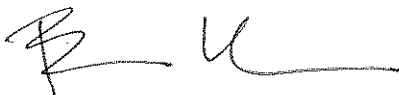
www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated April 22, 2016 in Olympia, WA.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters

Attachment A
Statement of Understanding
Water Quality Certification Conditions
Fazio Brothers Sand Company Project
Columbia River Mining

Water Quality Certification Order No. **13271**
And
Corps Reference No. **NWS-2003-1265**

I, _____, state that I will be involved as an agent or contractor for Fazio Brothers Sand Company, Vancouver, Clark County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **13271** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

